

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAINTERS' DISTRICT COUNCIL)	
NO. 2, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:10CV02339 AGF
)	
GRAU CONTRACTING, INC.,)	
)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This is an action under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1132, to collect delinquent fringe benefit contributions. Following the filing of Plaintiff's Complaint, Defendant Grau Contracting, Inc. failed to answer or otherwise respond. An order of default was entered on April 13, 2011, and on July 15, 2011, the Court granted Plaintiffs a partial default judgment and ordered Defendant to submit, within thirty days, all outstanding weekly fringe benefit reports for the period of June 14, 2009, through July 15, 2011. In addition, the Court ordered Defendant to submit its books to an audit by an auditor of Plaintiffs' choice and at Defendant's cost.

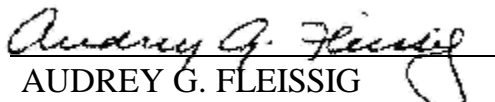
As of this date, Defendant has submitted all outstanding weekly fringe benefit reports, as required by the Court's Order of July 15, 2011, and allowed a limited examination of its books. Asserting that Defendant has failed to submit all books needed to complete the audit, despite several requests by Plaintiffs' auditor to examine those books, Plaintiffs

now move for an order finding Defendant in contempt of this Court, imposing a fine, and awarding them attorneys' fees and costs for the preparation of their motion.

Accordingly,

IT IS HEREBY ORDERED that a hearing is set for **Monday, January 9, 2012, at 3:30 p.m.**, in the Thomas F. Eagleton United States Courthouse, 111 South 10th Street, St. Louis, Missouri 63102, at which Defendant Grau Contracting, Inc. shall appear and show cause why civil contempt sanctions should not be imposed against it for failure to fully comply with the Court's Order of July 15, 2011. Because incarceration is a possible civil contempt sanction, Defendant has the right to representation by counsel. Failure to appear for the hearing as ordered may subject the officers or principals of Defendant Grau Contracting, Inc. to arrest by the United States Marshals Service.

IT IS FURTHER ORDERED that Plaintiffs shall effect service of this Order and the Court's Order of July 15, 2011, (Doc. No. 8) on Defendant by whatever means they believe to be most effective, and shall promptly file a certificate of such service. Failure to show adequate evidence of prompt service may result in the continuation or cancellation of the contempt hearing.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of December, 2011.